

City Council Meeting Minutes

**November 4, 2019
City Hall, Council Chambers
749 Main Street
6:30 PM**

Call to Order – Mayor Muckle called the meeting to order at 6:30 p.m.

Roll Call was taken and the following members were present:

City Council: ***Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann***

Staff Present: ***Heather Balser, City Manager
Megan Davis, Deputy City Manager
Kevin Watson, Finance Director
Nathan Mosely, Parks, Recreation, & Open Space Director
Kurt Kowar, Public Works Director
Rob Zuccaro, Planning & Building Safety Director
Felicity Selvoski, Planner I
Lisa Ritchie, Senior Planner
Meredyth Muth, City Clerk***

Others Present: ***Nick Cotton-Baez, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Keany. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Don Parcher, 378 Grouse Court, spoke about moving forward with his “Network of Neighbors” to make sure everyone is connected and the benefits that provides.

Deb Fahey, 1118 West Enclave Circle, thanked Jay Keany, Sue Loo, and Mayor Muckle for their service on Council.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle said there was a suggestion of moving items E and L to regular business before the budget discussion. Councilmember Loo moved to approve the consent agenda with those changes, seconded by Councilmember Keany. Councilmember Stolzmann asked to move item 8E Resolution No. 43 onto the Consent Agenda. Motioner and Secunder agreed to that friendly amendment. All in favor.

AMENDED

- A. Approval of Bills**
- B. Approval of Minutes: October 8, 2019; October 15, 2019**
- C. Approval of Special Meeting on Monday, January 13 at 6:30 pm for Biennial City Council Ethics Training**
- D. Approval of DRCOG Grant Award for Traffic Signal Improvements:**
 - i. Approve Contract Between the City of Louisville and AM Signal for the DRCOG Traffic Signal Improvements Vehicle Sensing Devices**
 - ii. Approve Contract Between the City of Louisville and AM Signal for the DRCOG Traffic Signal Improvements Camera and Video Management**
 - iii. Approve Contract Between the City of Louisville and Trafficcast for the DRCOG Traffic Signal Improvements Travel Time Management System**
 - iv. Approve Additional Funding for WL Contractors for Installation of Equipment**
- E. Approval of Resolution No. 37, Series 2019 – A Resolution Approving a Preservation and Restoration Grant for the Butcher-Jones House Located at 1013 Jefferson Avenue – moved to regular business**
- F. Award Contract to Northwest Roofing for the Hail Damage Repairs at the Police Station and Municipal Court**
- G. Approve Execution of Contract with CliftonLarsonAllen LLP for Utility Billing Services**
- H. Approval of Amendments to Financial Policies**
- I. Approval of Purchase of 2020 Ford F-150 Replacement Vehicle**
- J. Approval of Purchase of Qwiksalt from Compass Mineral**
- K. Approval of Collection System Evaluation for Wastewater Plant Loading**

- L. Approval of Resolution No. 38, Series 2019 – A Resolution Setting Certain Fees, Rates, and Charges for the City of Louisville, Colorado – moved to regular business**
- M. Approval of 2020 Louisville Legislative Agenda**
- N. Approval of Coal Creek Golf Course Food and Beverage Concessionaire Contract Renewal**
- O. Resolution no. 43, series 2019 – a resolution approving a business assistance agreement with 1882 Ventures, LLC for an Economic Development Project in the City of Louisville – moved to consent agenda**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Councilmember Keany noted there is a Youth Advisory Board tomorrow at the Rec Center and invited anyone to attend.

CITY MANAGER'S REPORT

City Manager Balser thanked Mayor Muckle, Councilmember Loo, Councilmember Keany for their dedication to the City and their work on City Council.

REGULAR BUSINESS

RESOLUTION NO. 10, SERIES 2019 – A RESOLUTION APPROVING THE PROPERTY TAX INCREMENT REBATE AGREEMENT WITH 712 MAIN LLC AND 722 MAIN LLC PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE LOUISVILLE REVITALIZATION COMMISSION AND THE CITY OF LOUISVILLE – continued from 3/19/19, 6/11/19, & 9/17/19

City Manager Balser noted this agreement was considered by City Council on March 19, 2019. City Council continued the item to allow the Louisville Revitalization Commission (LRC) and City Council time to construct a policy document for guidance on how and when financial assistance should be provided. The City Council and the LRC each approved a Property Tax Increment Financing (TIF) Rebate Assistance Policy by July. The Policy stipulated a third party review be conducted of the financial information provided as part of an application. The LRC approved a contract with Economic and Planning Systems (EPS) to conduct such a review. Balser noted the EPS materials were slightly revised from those reviewed by the LRC on October 14, as the Fire District calculation was removed since there is currently no agreement in place to share revenues and the LRC operating expenses were increased reflecting current payments. There was a minimal change in the final numbers. She asked EPS for a presentation.

Tim Morzel, with EPS, provided Council with an overview of the market and financial analysis of the request for TIF submitted by Terraces on Main.

Key Project Attributes:

- Existing Use: General Office
- Proposed Use: Retail/restaurant space on ground floor and office space on second floor
- Area: 4,736 sf retail/restaurant space and 10,686 sf office space
- Rental rate: Project is estimated to be able to achieve an average rental rate of \$29/sf for the ground floor retail space and \$27.50/sf for the second floor office

Project Feasibility Evaluation – “but-for” test

Methodology

Evaluate the performance of the project with and without an investment of public funds. Is the project feasible?

Yield on Cost

- Evaluation of the static performance of the project based on net operating income divided by total project costs.
- Yield on cost typically ranges from 6.0% to 8.0% (7.0% applied).

Net Present Value

- Estimated by applying an appropriate discount rate to the annual project cash flows. The discount rate is used to bring future cash flows to a current net present value.
- The discount rate reflects the weighted average cost of capital and accounts for industry standards for return to debt and equity. The discount rate for this project is estimated at 9.0%.

Developer Return – with and without public investment – Yield on Cost approach

- Project cost includes acquisition, site work infrastructure, architecture and engineering, vertical construction and others.
- Annual Revenue assumes rental rates of \$27.50 and \$29 per sf and stabilized vacancy rate of 5.0%.

The yield on cost target is 7.0%. Without public investment, this project calculated return on cost is 5.68%. In order to get to the 7.0% cost hurdle, the project needs an upfront investment of \$1.34 million.

The second approach takes the project’s ten year cash flow starting with construction costs, integrating net operating income, escalated at 2% per year and also integrating a disposition value in year ten. Based on those cash flows and a discount rate of 9% they estimate a net present value gap without public investment of -\$1.01 million.

This leaves the estimated project gap of \$1.1 to 1.3 million. The analysis relies on a number of key assumptions, the most important are estimated rents and construction costs. The gap could be higher.

Key considerations – TIF Rebate Options

- 90% of TIF, 10 Years generates \$927,527 in nominal revenues which have a present value of \$643,892
- 50% of TIF, 5 years generates \$242,906 in nominal revenues which have a present value of \$190,461
- Both options result in a remaining project gap.

Key assumptions driving those estimates

- Development value is estimated at \$250 per square foot
- Depending on the assessors valuation of the property may be as high as \$300 sf
- Results in a 30% increase in total TIF revenues

Councilmember Maloney asked how the sales tax assumptions were calculated. Morzel stated the assumption was \$350 per sf in annual sales taxed at the city rate. Mayor Pro Tem Lipton asked what happens if the first floor is office not retail or restaurant. Morzel stated that use would not generate direct sales tax.

Mayor Muckle asked how the increment was calculated and if the base value was inflated. Morzel noted the base increases every two years based on the re-assessment resulting in 1.5% increase in base value over the remaining life of the TIF.

Councilmember Leh noted the discount rate was 9% and asked why. Morzel said the discount rate for each project is based on a number of factors; geographical location, product type, and a key factor is a split in how the project is funded between debt and equity.

Councilmember Maloney asked Director Zuccaro if this aligns with the fiscal model we use for other developments. Director Zuccaro stated the standard assumption based on less than 2500 sf is \$100 and it is an average across the City, not specific to downtown.

Councilmember Stolzmann asked about the agreement noting it defines the base as the most recent assessed valuation of the property. Morzel said the base comes down to the valuation from the assessor's office.

City Manager Balser stated the LRC voted at their October meeting and approved the 90% rebate by a 4-2 vote. The resolution and agreement have been updated based on this vote. The agreement caps the assistance at \$1.1 million.

City Manager Balser stated options moving forward are approving, requesting time for review, or deny. Staff recommends approval based on the LRC recommendation, the

third party review, and the community benefits. The applicant and LRC members are present.

Applicant – David Sinkey, Boulder Creek Homes 712 Main Street, thanked the outgoing Councilmembers for their service. He asked for consideration of three points 1) this is not a City subsidy, but a rebate; 2) approval is no financial risk to the City, and 3) adding complexity to the TIF proposal hurts the project. He stated many people feel the free market should dictate this without City help, however this is not a free market building as there are requirements based beyond the market forces. The Code and PUD requirements mandate higher design.

He stated these financial tools are at work in other cities. If approved and the building is never built there is no risk to the City. If approved and built the likelihood of increased sales tax is enhanced and there will be increased property taxes. If complexity is added to the agreement it is unnecessary and distracting. The purpose of these tools is to encourage private investors to invest in the area. He noted he and his partners are long term stakeholders in the City.

Mayor Muckle asked if members of the LRC had anything to add.

Steve Fisher, chairperson LRC, noted the Commission had mixed feelings about this. He encouraged approval of the request. Boulder Creek is a good company and neighbor. Having the third party analysis was a good addition to the process.

Lexi Adler, LRC vice chair, stated she supports the application and encourages approval. The third party review was important. Both EPS and staff provided the proof of the need for this request. She noted other cities are using these tools. She would like Council to support the application and this local employer. If they left it would negatively impact our community. The potential sales tax generation and a retail/office mix should be supported. This will stimulate growth and reinvestment in the area.

Debra Baskett, LRC member, spoke in favor and urged Council to approve the 90% rebate. There is a real gap in the costs. The resulting revenues would be good for Louisville. She stated Council should not be discussing a required retail use as it hampers the applicant with their lender.

Public Comments

Mark Oberholzer, 224 Hoover Avenue, stated he owns Tilt and is chair of the Business Retention and Development Committee (BRaD). He stated BRaD supports this type of a tool and Council should use it when appropriate.

As a neighboring business owner he personally supports the project to help downtown and the City should do what it can to help the project move forward. He stated he feels the numbers in the analysis are conservative.

Caleb Dickinson, 721 Grant Avenue, read an email he sent to Council supporting the project and the City's approval of the agreement.

Rick Kron, 746 W. Fir Ct., president of the Downtown Business Association (DBA), stated the DBA supports the agreement. It will encourage keeping local jobs and activity downtown, the building will provide the opportunity for increased retail activity and the TIF will allow two weak buildings to be replaced with a more suitable building in that location allowing long term revenue in downtown.

Councilmember Stolzmann asked if the LRC had discussed inflating the base. City Manager Balser stated no. Mayor Muckle asked if the agreement needs to be amended to clarify the base inflating as it is supposed to and the calculation. Director Watson stated he felt the agreement holds the base constant. If want to adjust the base would have to make an assumption and should make a notation in the agreement that states that.

Mayor Muckle moved to approve Resolution No. 10, Series 2019; Councilmember Keany seconded.

Mayor Pro Tem Lipton stated his thinking as a member of the LRC and a dissenting vote. He stated the TIF policy has a principals that there would have to be extraordinary community benefit for such a rebate. For this project, he feels at the end of the day this building could end up a two-story office building or it could be sold to another owner before the 10 years is up. Worst case scenario the building will not generate sales tax. He felt it does not meet the test for the full 90% for 10 years. He prefers a TIF package other than this; it is a tool we should use as appropriate. He doesn't want to set a precedent for other developers that we fund office buildings. He was willing to entertain something other than the full 90% for 10 years.

Councilmember Maloney stated this isn't about not supporting the business it is about a TIF rebate and do we invest here or somewhere else. As a City, we should be more aggressive looking at where we invest in the City and where we can stimulate growth and reinvestment, especially if it produces sales tax. When applying the Urban Renewal tool and looking at the map of the whole urban renewal area there are areas that could use some help and we should use the funds where they have the greatest impact long term. From his perspective we need to be more aggressive using our urban renewal funds but this project is on that edge of a priority. He would support but not at the 90% level.

Councilmember Loo stated the incremental property tax the City would be foregoing for 10 years is significant. However, in 2033 the City would get funds we did not have before. If approved at the end of all this there would be a \$7M building and it would generate a lot more property tax than we would have without it and it would be a better building than what is in that location today. Not even looking at the sales tax, the new building would be better for Louisville. If we don't do this, what is the alternative; nothing is happening on its own. This project won't go without the 90%; this is a risk the City has to take to get

something to happen there. Even if it becomes office on the first floor that is still more bodies downtown to help support other retail. Approval also sends a message to the business community we want to help. We have an interested party wanting to improve this location and we should support that.

Councilmember Keany stated this is an important thing for the community to do for downtown. He hears from residents that downtown needs to be revitalized. This is a rebate. We need to support this. He was concerned if we don't support this applicant they may move to another location leaving multiple buildings vacant downtown. This makes sense for the community.

Mayor Muckle stated supporting this is not in conflict with other projects in the area. He doesn't think this sets a fixed precedent that requires us to use it other places. This location would benefit from a newer building and bring people downtown. He would like to see retail, but doesn't want to require it.

Councilmember Stolzmann stated she agreed with Councilmember Maloney. She stated she would like a time commitment included similar to the business assistance packages. She would like to see a requirement for retail on the first floor. She stated the BAPs and the TIF program are different and have different goals. She too feels it doesn't meet the requirements for extraordinary circumstances and is precedent setting.

Councilmember Leh asked Councilmember Stolzmann which criteria it doesn't meet. Councilmember Stolzmann stated she feels that as proposed it doesn't meet many of the criteria in the policy.

Councilmember Leh stated this is a rigorous process for the rebate. Part of being a business owner is that we all value certainty and adding different requirements and changing rules in the middle of the game are hard to deal with. He feels the extraordinary benefit is the only factor we are really arguing about and the policy stated the proposed project must address three or more of the objectives in the policy. He feels the application meets enough of the criteria. If we don't approve this we are sending a signal to downtown we are not serious about supporting those businesses with the tools we have in our tool kit. The Council should not put yet another restriction on how we approve TIF benefits. Most certainly three or more criteria are addressed by this application. There is a project in front of us we should consider, while not worrying about possible later projects. We are sending a message to businesses and to other communities we are willing to use this tool. We continue to say we are friendly to business but we are running out of time in making that argument. For those reasons he supports this.

Mayor Pro Tem Lipton stated the criteria he noted are qualifying for any project however the extraordinary benefits are more stringent and this doesn't meet that. To get the 90 % they need to offer more.

Councilmember Leh stated this new building would be a huge benefit to downtown. The extraordinary benefit of providing new tax revenue downtown should qualify. The chances of having substantial new revenue is a bet, but one worth taking. We should approve the incentive at 90%; at 50%, we may as well vote it down.

Mayor Muckle clarified his motion to make sure there is a note in the agreement about inflating the base based on the assessor's valuation every two years. Director Watson stated the assumption would have to be made by the average increase in the whole district. Attorney Cotton-Baez stated we could capture that language in the agreement.

Mayor Muckle moved to approve with that change made by staff before signing. Councilmember Keany as seconder agreed to the changes.

Councilmember Maloney supports the project just not the TIF rebate. He feels it could be built without that rebate. He stated we are supportive of downtown with the tools we have.

Roll Call Vote: Motion passed 4-3; Mayor Pro Tem Lipton and Councilmembers Maloney and Stolzmann voting no.

RESOLUTION NO. 39, SERIES 2019 – A RESOLUTION DESIGNATING THE TROTT/DOWNER CABINS TO BE LOCATED AT 1212 SOUTH STREET (MINERS FIELD) A HISTORIC LANDMARK

Mayor Muckle introduced the item and opened the public hearing.

Planner Selvoski stated this is a request for landmarking the cabins at their new location at Miners Field. She reviewed the architectural significance, social significance, and physical integrity of the cabins. Staff and the HPC recommend approval of the landmarking.

Public Comments

Jean Morgan, 1131 Spruce Street, stated this has been a 15-year project for her and she thanked the Council for landmarking. She would like to see continued work on the project with volunteers and to secure the last building on the property. She thanked Director Zuccaro for his work.

Mayor Muckle closed the public hearing.

Councilmember Keany moved to approve Resolution No. 39, Series 2019; seconded by Councilmember Leh.

Councilmember Leh thanked Ms. Morgan for all her work on this project.

Voice vote: all in favor.

**THE BUSINESS CENTER AT CTC GENERAL DEVELOPMENT PLAN AMENDMENT,
FINAL PLAT, AND FINAL PLANNED UNIT DEVELOPMENT FOR 1411 AND 1443
SOUTH ARTHUR**

**ORDINANCE NO. 1785, SERIES 2019 – AN ORDINANCE AMENDING THE BUSINESS
CENTER AT CTC GENERAL DEVELOPMENT PLAN REGARDING ALLOWED USES
AND DEVELOPMENT STANDARDS ON LOT 2, THE BUSINESS CENTER AT CTC
REPLAT E AND LOT 6, BLOCK 1, THE BUSINESS CENTER AT CTC LOCATED AT
1411 AND 1443 SOUTH ARTHUR AVENUE – 2ND READING, PUBLIC HEARING
(advertised *Daily Camera* 10/20/19)**

**RESOLUTION NO. 40, SERIES 2019 – A RESOLUTION APPROVING A FINAL PLAT
TO CONSOLIDATE LOTS AND A FINAL PLANNED UNIT DEVELOPMENT TO
ALLOW CONSTRUCTION OF A 102,000 SQUARE FOOT STRUCTURE AND
ASSOCIATED SITE IMPROVEMENTS FOR LOT 2, THE BUSINESS CENTER AT CTC
REPLAT E AND LOT 6, BLOCK 1, THE BUSINESS CENTER AT CTC, LOCATED AT
1411 AND 1443 SOUTH ARTHUR AVENUE**

Attorney Cotton-Baez introduced the ordinance; Mayor Muckle opened the public hearing.

Planner Ritchie reviewed the site in the Colorado Tech Center and the background of the site. The site is under the CDDSG and the IDDSG on the east. She reviewed the 2016 look at a road across this lot recommending a dedication of right-of-way for this road. This plan accommodates the road should the Council fund it in the future. The application requires both lots to develop under the CDDSG, amends permitted uses on both lots to allow industrial, office and limited commercial, and maintains the PCZD-Industrial zoning designation. Staff finds it meets the purpose and applicability statements in the Louisville Municipal Code by: encouraging coordinated community design by allowing higher architectural design on both lots, accommodating more land uses that may now be viable due to the possible street connection between S. Arthur Avenue and S. 96th Street and providing additional economic opportunity in this area of the CTC in an integrated and coordinated manner.

Ritchie stated the application for the replat conforms to all of the requirements in Titles 16 and 17 of the municipal code and is consistent with the comprehensive plan and the transportation master plan. Ritchie reviewed the site plan.

Councilmember Leh noted he represents the neighboring business, recused himself, and left the room.

Ritchie reviewed the requesting waivers: 1) a request to allow an 8'10" parking setback on a portion where 10' is required. Staff supports the waiver. 2) a request to allow a maximum building height of 40'6" where 35' is required. IDDSG allows 40', CDDSG allows mechanical screen up to 42'. Staff finds the waiver is warranted. 3) a request to

allow architectural concrete and the use of metal. Staff finds the waiver is warranted due to exceptional design. 4) a request for relief from the requirement for 1 tree every 40 ft of property boundary. Staff supports the request due to overall landscape design and amenities incorporated in the development plan. 5) They are asking for a parking reduction which City Council can grant if they find it appropriate in this case. Staff supports this.

Staff recommends approval of the ordinance and the resolution with the following conditions: 1. Prior to recordation of the PUD, the applicant record an easement allowing emergency access onto the property to the north. 2. The applicant dedicate Outlot A to the City of Louisville by Special Warranty Deed.

Applicant Presentation

Andy Johnson, DAJ Design, reviewed the site. He noted the architecture seeks to take advantage of the site and the views to the west. It includes outdoor spaces for each office condominium, underground parking, and amenities for the owners.

Public Comments

Mark Oberholzer, 224 Hoover Avenue, speaking personally not on behalf of BRaD, stated this is a bold design and fits well in this space. This seems like a great place for an office and is still close to downtown. He felt the road could be an asset for CTC but also for downtown. It is a great project.

Councilmember Keany expressed support for the project.

Public Comments

None.

Mayor Muckle closed the public hearing and stated this is a good addition to the building stock in town.

Councilmember Maloney agreed this is a great building for the CTC and the land dedication for a connector is a good consideration for the future.

Councilmember Maloney moved to approve Ordinance No.1785, Series 2019; Mayor Muckle seconded.

Roll call vote: Motion passed 6-1; Councilmember Leh recused from the vote.

Councilmember Maloney moved to approve Resolution No. 40, Series 2019; Councilmember Stolzmann seconded.

Voice vote all in favor.

816 LINCOLN AVENUE LANDMARKING & GRANT

**RESOLUTION NO. 41, SERIES 2019 – A RESOLUTION DESIGNATING THE
WATTELET HOUSE LOCATED AT 816 LINCOLN AVENUE A HISTORIC LANDMARK**

**RESOLUTION NO. 42, SERIES 2019 – A RESOLUTION APPROVING A
PRESERVATION AND RESTORATION GRANT FOR THE WATTELET HOUSE
LOCATED AT 816 LINCOLN AVENUE**

Mayor Muckle introduced the item and opened the public hearing.

Planner Selvoski reviewed the site. She reviewed the age, architectural significance, and physical integrity. Staff finds it meets the criteria for landmarking.

Selvoski reviewed the grant request and what the funds would be used for. The proposed work totals \$109K and the maximum grant allowed is \$40K which is what the applicant is requesting. The work to be done does qualify as preservation, rehabilitation, and restoration. She reviewed the fiscal impact. 816 Lincoln Avenue previously received \$3,000 in grant funds for a historic structure assessment. Approval of the grant request allows for a matching grant of up to \$40,000 from the Historic Preservation Fund (HPF) in addition to a \$5,000 land-marking incentive.

She reviewed the alteration certificate the HPC has already approved. It includes a new second story addition in the rear.

Staff recommends approval of both the landmarking and the grant.

Applicant Presentation

Andy Johnson, DAJ Design, reviewed the project including the existing house and its history. He stated the original materials are under all of the new ones. He stated if possible they plan to keep more than originally planned; maybe up to 15 feet of the front of the home and the original roof line maintaining the overall intent of the building. He stated saving the façade maintains the cadence and street frontage of the neighborhood.

Councilmember Stolzmann asked if the new information concerning saving more of the structure changes the decision points. Selvoski stated it does not.

Public Comments

Caleb Dickinson, 741 Grant Avenue, stated the HPC had a long conversation related to the alteration certificate for this site. This is an example of how we prevent demolition and

keep the street front. We don't want to see demos but would like to see more preservation, this is a happy medium of preservation and restoration.

Mayor Muckle moved to approve Resolution No. 41, Series 2019. Councilmember Stolzmann seconded.

Voice vote all in favor.

Councilmember Stolzmann moved to approve Resolution No. 42, Series 2019. Loo seconded.

Roll call vote: Motion carried by unanimous roll call vote.

**APPROVAL OF RESOLUTION NO. 37, SERIES 2019 – A RESOLUTION APPROVING
A PRESERVATION AND RESTORATION GRANT FOR THE BUTCHER-JONES
HOUSE LOCATED AT 1013 JEFFERSON AVENUE (*moved from consent agenda*)**

Planner Selvoski stated this was landmarked in 2013. The applicant is requesting a preservation grant for \$2,195 to add insulation to the home. She noted the HSA says the insulation is not to code. This type of work has been approved for other grants. Staff recommends adding insulation to a very under insulated home and the request qualifies for a focused grant to make the home more functional.

Public Comments - None

Councilmember Loo stated she did not realize we are providing grants for insulation. She does not feel this is preserving the property but rather maintaining it. She does not agree with the rationale that this aids in its preservation. She feels the HPF is likely not the place to fund this. She urged Council to look at the grants going forward to decide if this is a good use of HPF money; upgrading the comfort of the home is not preservation.

Public Comments

Caleb Dickinson, 721 Grant Avenue, reminded Council that owners must landmark to get the funds. If that is what it takes to get homes landmarked it would be worth it. He noted usually a request for this type of grant would include additional things but this homeowner is trying to get the building brought up to code.

Councilmember Stolzmann stated there are other community programs that do help pay for insulation if others are interested in this.

Councilmember Stolzmann moved to approve Resolution No. 37, Series 2019. Loo seconded.

Roll Call Vote: Motion carried by unanimous roll call vote.

APPROVAL OF RESOLUTION NO. 38, SERIES 2019 – A RESOLUTION SETTING CERTAIN FEES, RATES, AND CHARGES FOR THE CITY OF LOUISVILLE, COLORADO (*moved from consent agenda*)

City Manager Balser noted questions have come up about tap fees. Councilmember Stolzmann stated, as chair of the Utility Committee, they reviewed the tap fee increases using the standard process based on the cost of water acquisition. The cost has gone up significantly and a provision was added that would allow developers to bring water if they can obtain it at a lower rate in lieu of the fee. The Utility Committee unanimously approved the tap fees.

Public Comments – None.

Councilmember Loo stated she was concerned the tap fee increase is over 75%. Even if developers can bring their own water that plan lacks detail. Her biggest concern is the cost increase is substantial and she doesn't see any input from the business community. She would like to know what our neighbors, our competitors for development, are doing for water costs. While growth needs to pay its own way we don't want to charge so much we are no longer competitive for development. We should have some analysis on whether we are competitive in this area or how we stay competitive.

Councilmember Stolzmann stated the development community was represented on the committee that drew up the methodology we use for this.

Mayor Pro Tem Lipton stated the magnitude of the costs is very high and he would like more analysis. What we are trying to do is have new development pay its own way, stay competitive with economic development, and keep our housing as affordable as we can to a diverse population. There seems to be conflict between these policy goals and how we apply the model. He would like more options for consideration.

Councilmember Maloney stated he agrees with Mayor Pro Tem Lipton. Water is clearly getting more expensive, but when comparing to our neighbors we seem vastly different. He would like more time to review and discussion of the tap fees before voting.

Councilmember Stolzmann stated what is being proposed is our standard procedure. Doing nothing is taking a dramatic action to not use our standard process. Not increasing is too bold. By allowing people to bring their own water there is an alternative. But to change our methodology on the dais sets a bad precedent. We can reevaluate the process in the New Year.

Councilmember Loo stated she doesn't necessarily want to redo the formula, but would like Council to understand how out of line our fees might be compared to our neighbors. We need to know exactly how we compare to our neighbors as this relates to economic

development. We need input from the business community. There is not enough information at this time to make a reasonable decision.

Mayor Muckle stated there is no magic way to pay for water. The cost of the water is the cost of the water. Colorado Big Thompson water is simply expensive, there are no other sources. If we are not going to charge for the water where is the money to pay for water going to come from. We have never subsidized the Utility Fund from the General Fund. Other neighbors require the new users to bring water. There are too many variables on how communities fund this to compare directly to our neighbors. We are never going to see the water prices we used to see.

Councilmember Keany noted we are raising prices on taps for future developments. We can meet our current needs and some future build out. If we raise tap fees now we are charging current users for future developments. Seems like raising the tap fees this much is a form of growth control in Louisville; it feels like social engineering. He thought the water tap fee should be excluded from the approval.

Deputy City Manager Davis clarified that the Council is voting on Resolution No. 38; that does not include the tap fees. Those are included in the packet as information about the fees set by the City Manager.

Director Kowar stated as a utility we try to be unbiased about recovering costs. These fees are delegated to the City Manager so they can be changed quickly as needed. These costs are what it costs to get water. The comparisons to our neighbors show us as on the high end, but other communities generally catch up. Competitiveness for economic development is balanced with competition for us to get water. Everyone is growing around us and we are all going after the same water. If developers can bring their own water it is another option. He noted a new large development could require us to aggressively get water. If those developments do not pay higher tap fees we will have to charge more to residents to make up for it in rates. This is a flexible plan that will recover costs.

Mayor Pro Tem Lipton stated he has questions about what is left in our inventory that can support growth. How much is in the water fund for acquisition now. How do we handle credit for water taps people already have. What are the options short of just raising rates. More information is needed both for Council and the public.

Councilmember Stolzmann stated there is not excess capacity in our system. Any new development should pay for their new water. It is concerning we are trying to re-legislate this now. We can't manipulate the formula for what you now want. That tap fee study was very favorable to development. If we don't charge for increased tap fees it will leave the rest of the community paying for any new large development. We should proceed with the existing tap fee plan and if there is a need it could be re-examined later. She feels many statements made this evening are incorrect.

City Manager Balser stated staff is trying to be responsive to Council. This is a new conversation, tap fees have always been done on a cost basis to keep the utility whole. These are City Manager approved fees and have been provided to assure transparency as City Council sets all their fees. Staff can take some time soon to look at this if Council wishes.

Attorney Cotton-Baez stated Council has delegated this authority to the City Manager and can call up the fees only after they have been passed and only if the fees are not set in accordance with the ordinance.

Mayor Muckle noted this is the current process and if we want to rethink how this is done that should be done separately. Putting the utility at risk is a poor idea.

Councilmember Loo stated she doesn't want to reevaluate the formula but wants staff to know what others are doing in this area. Drastic changes in the price means the process should be looked at. We can't do this without letting the community know about this.

Councilmember Leh stated the ordinance delegates this authority to the City Manager and we have to entrust the decision to her. The result is concerning and there are questions but he is troubled by the idea of Council addressing this without the authority to do so. This should be a 2020 Work Plan item. We have a variety of goals and maybe those need to be reviewed. But to call out tap fees separately tonight should not be done from the dais. This is a longer policy discussion for a later date.

Councilmember Leh moved to approve Resolution No. 38, Series 2019; Councilmember Keany seconded.

Mayor Pro Tem Lipton asked if Council by motion could set a study session in December to discuss these issues. Attorney Cotton-Baez noted the ordinance requires the city manager to set the fees by January 1 and Council can call them up only after adoption. Mayor Pro Tem Lipton inquired what the process is for Council to call up the fees. Attorney Cotton-Baez stated it would be after they are effective.

City Manager Balser said if the direction is to address this at a future meeting, staff can put it on an agenda with more information provided.

Councilmember Loo stated she will vote no because there is no requirement to go back and have more conversation. Councilmember Leh said this would take a legislative change and he will bring it up in the future. Mayor Muckle noted those on the future councils will have the opportunity take this up.

City Manager Balser stated staff can bring it forward in November. Staff will continue to be responsive to the requests of Council.

Mayor Muckle noted the wisdom exhibited in taking this out of the political sphere and making it remain in the hands of those who understand the technical aspects.

Roll Call Vote: Motion passed 5-2 with Mayor Pro Tem Lipton and Councilmember Loo voting no.

ADOPTION OF 2020 BUDGET

RESOLUTION NO. 44, SERIES 2019 – A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET FOR THE CITY OF LOUISVILLE, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2020 AND ENDING ON THE LAST DAY OF DECEMBER 2020

RESOLUTION NO. 45, SERIES 2019 – ANNUAL APPROPRIATION RESOLUTION FOR THE CITY OF LOUISVILLE FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2020 AND ENDING DECEMBER 31, 2020

RESOLUTION NO. 46, SERIES 2019 – A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2019, TO HELP DEFRAID THE COSTS OF GOVERNMENT FOR THE CITY OF LOUISVILLE, COLORADO FOR THE 2020 BUDGET YEAR

Mayor Muckle introduced the item. Director Watson stated this is the last of the budget conversations, by passing these it formally approves the 2020 budget. Since the October 1 meeting, there have been some slight revisions to expenditures and revenues based on what was presented to the Finance Committee on October 25.

City Manager Balser noted the inclusion of a request from the DBA for additional Street Faire funding. If approved, staff can make the changes to the resolutions and it would also require an amendment to the license agreement with the DBA.

Public Comments – None.

Councilmember Stolzmann moved to approve Resolution No. 44, Series 2019 with the additional funding for the Street Faire; Councilmember Leh seconded.

Roll Call Vote: Motion carried by unanimous roll call vote.

Councilmember Stolzmann moved to approve Resolution No. 45, Series 2019 with additional funding for the Street Faire; Councilmember Leh seconded.

Roll Call Vote: Motion carried by unanimous roll call vote.

Councilmember Stolzmann moved to Resolution No. 46, Series 2019, Series 2019; seconded by Councilmember Leh.

Roll Call Vote: Motion carried by unanimous roll call vote.

**DISCUSSION/DIRECTION/ACTION – FIRST AMENDMENT TO STREET FAIRE
LICENSING AGREEMENT**

City Manager Balser stated this is an amendment to the original agreement and addresses the additional \$25K just approved in the Budget and lays out net revenue sharing and loss sharing between the City and the DBA. It also says there will be a Council representative to the Street Faire Committee as well as a staff representative.

Mayor Pro Tem Lipton stated this is an important event to the community and downtown. He wondered if there was alignment between the Council and the DBA goals. In the past there had been sufficient funds to get bigger named bands so he wondered why this was needed. He hopes by spending more on bands we are not going too far. The City must have the DBA's back on this if it goes well or not. He is concerned the Council does not have enough understanding of what the DBA wants. We need to bring the people back downtown for the event and hope this is enough to accomplish that.

City Manager Balser clarified this agreement is just for 2020 and a new license agreement will come back for 2021 and following years.

Mayor Muckle moved to approve the first amendment to the Street Faire license agreement; Councilmember Keany seconded.

Voice vote: all in favor.

EXECUTIVE SESSION

REAL PROPERTY ACQUISITIONS AND DISPOSITIONS

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

PENDING LITIGATION

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b))

City Attorney Cotton-Baez introduced the request for executive session stating the Mayor is requesting an Executive Session for the purpose of consideration of potential property acquisition and disposition in Louisville and for discussion of pending litigation.

The City Clerk read Section 2.180.130 of the Louisville Municipal Code which outlines the topics permitted for discussion in an executive session.

City Attorney Cotton-Baez stated the authority to conduct this executive session is in the Home Rule Charter Section 5-2(c) for Council to discuss potential real property acquisitions and dispositions, with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy, and in C.R.S. 24-6-402(4)(a). The request involves potential acquisition of real property.

City Attorney Cotton-Baez stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation. An executive session for this purpose is also authorized by C.R.S. Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

MOTION: Mayor Muckle moved the Council adjourn to executive session for the purpose of consideration of potential real property acquisitions and dispositions, with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy; and for discussion of pending litigation and that the executive session include the City Council, City Manager, City Attorney, Deputy City Manager, Public Works Director, and Parks, Recreation & Open Space Director. Seconded by Mayor Pro Tem Lipton.

Roll call vote: Motion carried by unanimous roll call vote.

The City Council adjourned to executive session at 10:44 pm.

The City Council meeting reconvened at 11:42 pm.

REPORT – DISCUSSION/DIRECTION/ACTION – REAL PROPERTY DISPOSITION AND ACQUISITIONS

City Attorney Cotton-Baez reported in the executive session Council discussed a matter concerning real property acquisitions and for consultation with the City's attorney regarding pending litigation. There is no request for follow up on the executive session.

CITY ATTORNEY'S REPORT

None.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Councilmember Stolzmann stated there was a Louisville Superior Joint Issues Committee and noted the Town purchased the former Land Rover building and are looking at uses for that building. Superior continues to see development downtown with significantly reduced commercial space.

Mayor Muckle reminded everyone of the reception on November 8 and thanked everyone for their work.

ADJOURN

Members adjourned at 11:45 pm.

Ashley Stolzmann, Mayor

Meredyth Muth, City Clerk